

HOUSE BILL No. 1700

DIGEST OF INTRODUCED BILL

Citations Affected: IC 20-8.1-5.1-19; IC 31-34; IC 31-37; IC 31-41; IC 33-19-8-5.

Synopsis: Court powers concerning parental involvement. Allows a school corporation or special school to obtain a court order when a person having care of a dependent student fails to participate in a disciplinary proceeding or action involving the person's child. Expands the programs that a juvenile court may require a parent to attend with a child who is adjudicated a delinquent child or child in need of services. Makes related procedural changes. Specifies that a parent, guardian, or custodian of a delinquent child who fails to participate in a program of care, treatment, or rehabilitation, as ordered by the juvenile court, may be found in contempt of court.

Effective: July 1, 1999.

**Cherry, Dvorak, Richardson,
Mellinger**

January 26, 1999, read first time and referred to Committee on Courts and Criminal Code.



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Introduced

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

HOUSE BILL No. 1700

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 20-8.1-5.1-19 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 19. (a) The governing
3 body of a school corporation may adopt rules that require a person
4 having care of a dependent student to participate in ~~an~~ **a disciplinary**
5 **proceeding or disciplinary** action taken under this chapter in
6 connection with a student's behavior. The rules must include the
7 following:
8 (1) Procedures for giving actual notice to the person having care
9 of the dependent student.
10 (2) A description of the steps that the person must take to
11 participate in the school corporation's **proceeding or** action.
12 (3) **Procedures for resolving any disputes concerning the**
13 **participation of the parent, guardian, or custodian in the**
14 **school corporation's proceedings or actions.**
15 (3) (4) A description of the additional **proceedings and** actions
16 in connection with the student's behavior that are justified in part
17 or in full if the person does not participate in the school



corporation's action, including an action under IC 31-34-1-7.

(5) A description of the additional proceedings and actions in connection with the behavior of the person having care of a dependent student that are justified in part or in full if the person does not participate in the school corporation's action.

(b) Rules adopted under this section and actions taken under this section must result in a program of participation that:

(1) is:

(A) in the least restrictive (most family like) and most appropriate setting available; and

(B) close to the parents' home and consistent with the best interest and special needs of the child;

(2) least interferes with family autonomy;

(3) is least disruptive of family life;

(4) imposes the least restraint on the freedom of the child and the child's parent, guardian, or custodian; and

(5) provides a reasonable opportunity for participation by the child's parent, guardian, or custodian.

(c) A school corporation or a special school described in section 22 of this chapter may participate as a party in a juvenile proceeding under IC 31-34-16, IC 31-37-15, IC 31-41, or another provision of IC 31 to obtain or enforce a court order requiring a child's parent, guardian, or custodian to participate in:

(1) a disciplinary proceeding or action in connection with the student's improper behavior, as provided for by this section; or

(2) an educational class or another school program or proceeding that the parent, guardian, or custodian is required to attend under an order issued under IC 31-34-20-3 or IC 31-37-19-24.

SECTION 2. IC 31-34-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. A child is a child in need of services if before the child becomes eighteen (18) years of age:

(1) the child's parent, guardian, or custodian fails to participate in a disciplinary proceeding **or action** in connection with the student's improper behavior, as provided for by IC 20-8.1-5.1-19; if

(2) the behavior of the student has been repeatedly disruptive in the school; and

~~(2)~~ (3) the child needs care, treatment, or rehabilitation that the child:

(A) is not receiving; and



(B) is unlikely to be provided or accepted without the coercive intervention of the court.

SECTION 3. IC 31-34-16-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. Any of the following may sign and file a petition for the juvenile court to require the participation of a parent, guardian, or custodian in a program of care, treatment, or rehabilitation for a child.

- (1) The prosecuting attorney.
- (2) The attorney for the county office of family and children.
- (3) A probation officer.
- (4) A caseworker.
- (5) The department of correction.
- (6) The guardian ad litem or court appointed special advocate.
- (7) A school corporation or a special school described in IC 20-8.1-5.1-22, if a child's parent, guardian, or custodian fails to participate in a disciplinary proceeding or action in connection with the student's improper behavior, as provided for by IC 20-8.1-5.1-19.**

SECTION 4. IC 31-34-16-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) The court may hold a hearing on a petition concurrently with a dispositional hearing or with a hearing to modify a dispositional decree.

(b) If the order concerns participation of a parent, the juvenile court shall advise the parent that failure to participate as required by an order issued under IC 31-34-20-3 (or IC 31-6-4-15.8 before its repeal) can lead to the termination of the parent-child relationship under IC 31-35 or result in the court finding the parent in contempt of court.

(c) If the order concerns participation of a guardian or custodian, the juvenile court shall advise the guardian or custodian that failure to participate as required by an order issued under IC 31-34-20-3 (or IC 31-6-4-15.8 before its repeal) can result in the court finding the guardian or custodian in contempt of court.

~~(c)~~ (d) If the court finds that the allegations under section 3 of this chapter are true, the court shall enter a decree.

SECTION 5. IC 31-34-20-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) If the juvenile court determines that a parent, guardian, or custodian should participate in a program of care, treatment, or rehabilitation for the child, the court may order the parent, guardian, or custodian to do the following:

- (1) Obtain assistance in fulfilling the obligations as a parent, guardian, or custodian.



(2) Provide specified care, treatment, or supervision for the child.

(3) Work with a person providing care, treatment, or rehabilitation for the child.

(4) Participate in a program operated by or through the department of correction **or the county.**

(5) Attend educational classes, attend disciplinary proceedings under IC 20-8.1-5.1, or participate in other disciplinary actions described in IC 20-8.1-5.1-18 that the child is required to attend under the dispositional decree.

(6) Visit with the child during specified times while the child is detained in a juvenile facility.

(b) In addition to any other action authorized by law, a parent, guardian, or custodian who fails to participate in a program ordered by the court under this section may be found in contempt of court.

SECTION 6. IC 31-37-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. Any of the following may sign and file a petition for the juvenile court to require the participation of a parent, guardian, or custodian in a program of care, treatment, or rehabilitation for the child:

(1) The prosecuting attorney.

(2) The attorney for the county office of family and children.

(3) A probation officer.

(4) A caseworker.

(5) The department of correction.

(6) The guardian ad litem or court appointed special advocate.

(7) A school corporation or a special school described in IC 20-8.1-5.1-22, if the child's parent, guardian, or custodian fails to participate in a disciplinary proceeding or action in connection with the student's improper behavior, as provided for by IC 20-8.1-5.1-19.

SECTION 7. IC 31-37-15-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) The court may hold a hearing on a petition concurrently with any dispositional hearing or with any hearing to modify a dispositional decree.

(b) If the order concerns participation of a parent, the juvenile court shall advise the parent that failure to participate as required by an order issued under IC 31-37-19-24 (or IC 31-6-4-15.8 before its repeal) can lead to the termination of the parent-child relationship under IC 31-35 **or result in the court finding the parent in contempt of court.**

(c) If the order concerns participation of a guardian or custodian, the juvenile court shall advise the guardian or custodian



that failure to participate as required by an order issued under IC 31-37-19-24 (or IC 31-6-4-15.8 before its repeal) can result in the court finding the guardian or custodian in contempt of court.

(c) (d) If the court finds that the allegations under section 3 of this chapter are true, the court shall enter a decree.

SECTION 8. IC 31-37-19-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 24. (a) If the juvenile court determines that a parent, guardian, or custodian should participate in a program of care, treatment, or rehabilitation for the child, the court may order the parent, guardian, or custodian to:

- (1) obtain assistance in fulfilling the obligations as a parent, guardian, or custodian;
- (2) provide specified care, treatment, or supervision for the child;
- (3) work with a person providing care, treatment, or rehabilitation for the child; and
- (4) participate in a program operated by or through the department of correction or the county;
- (5) attend educational classes, attend disciplinary proceedings under IC 20-8.1-5.1, or participate in other disciplinary actions described in IC 20-8.1-5.1-18 that the child is required to attend under the dispositional decree; and
- (6) visit with the child during specified times while the child is detained in a juvenile facility.

(b) In addition to any other action authorized by law, a parent, guardian, or custodian who fails to participate in a program ordered by the court under this section may be found in contempt of court.

SECTION 9. IC 31-41 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]:

ARTICLE 41. PARENTAL PARTICIPATION IN SCHOOL DISCIPLINARY ACTION

Chapter 1. Parental Participation Order

Sec. 1. The definitions applicable to IC 31-34 and IC 31-37 apply throughout this chapter.

Sec. 2. If:

- (1) a school corporation or a special school described in IC 20-8.1-5.1-22 takes a disciplinary action against a child under IC 20-8.1-5.1;
- (2) the child's parent, guardian, or custodian fails to participate in a disciplinary proceeding or action as required under IC 20-8.1-5.1-19; and



(3) a juvenile court does not have jurisdiction over the child under IC 31-34 or IC 31-37; the school corporation or special school may file a petition for compliance with IC 20-8.1-5.1-19 in the juvenile court for a county where the child attends school.

Sec. 3. A petition filed under section 2 of this chapter must be verified.

Sec. 4. A petition filed under section 2 of this chapter must state facts that indicate the following:

(1) The petitioner is a school corporation or a special school described in IC 20-8.1-5.1-22.

(2) The school corporation or special school has adopted rules that require a person having care of a dependent student to participate in a disciplinary proceeding conducted or a disciplinary action imposed under IC 20-8.1-5.1.

(3) A child is a dependent student enrolled in the school corporation or special school.

(4) The school corporation or special school, in conformity with IC 20-8.1-5.1, is conducting a disciplinary proceeding or taking a disciplinary action in connection with the child.

(5) The school corporation or special school has, in conformity with IC 20-8.1-5.1-19 and the rules adopted under IC 20-8.1-5.1-19, required a parent, guardian, or custodian of the student to participate in a disciplinary proceeding conducted or disciplinary action taken for the child.

(6) The child's parent, guardian, or custodian has failed to participate as required under IC 20-8.1-5.1-19 and the rules adopted under IC 20-8.1-5.1-19.

(7) Participation of the parent, guardian, or custodian as required under IC 20-8.1-5.1-19 and the rules adopted under IC 20-8.1-5.1-19 is in the best interest of the child.

(8) The parent, guardian, or custodian is unlikely to participate as required under IC 20-8.1-5.1-19 and the rules adopted under IC 20-8.1-5.1-19 without an order of the juvenile court.

Sec. 5. Upon the filing of a petition for compliance and after notice and a hearing on the petition for compliance, the juvenile court may order the parent, guardian, or custodian of a child to attend educational classes, attend disciplinary proceedings under IC 20-8.1-5.1, or participate in other disciplinary actions described in IC 20-8.1-5.1-18 that the child is required to attend under IC 20-8.1-5.1.



1 **Sec. 6. An order issued under section 5 of this chapter must**
 2 **result in a program of participation that:**

3 (1) is:

4 (A) in the least restrictive (most family like) and most
 5 appropriate setting available; and

6 (B) close to the parents' home and consistent with the best
 7 interest and special needs of the child;

8 (2) least interferes with family autonomy;

9 (3) is least disruptive of family life;

10 (4) imposes the least restraint on the freedom of the child and
 11 the child's parent, guardian, or custodian; and

12 (5) provides a reasonable opportunity for participation by the
 13 child's parent, guardian, or custodian.

14 **Sec. 7. An order may not require participation in a disciplinary**
 15 **proceeding or program for more than six (6) months, except by**
 16 **approval of the juvenile court. The juvenile court may:**

17 (1) extend; or

18 (2) extend and modify an order;

19 for one (1) or more periods of six (6) months until the child is no
 20 longer enrolled as a dependent student in a school corporation or
 21 special school in Indiana.

22 **Sec. 8. The juvenile court shall advise the parent that failure to**
 23 **participate as required by an order issued under this chapter can**
 24 **result in the court finding the parent in contempt of court.**

25 **Sec. 9. The probation department for the juvenile court shall**
 26 **monitor compliance with the order.**

27 **Sec. 10. The juvenile court may order the child's parent,**
 28 **guardian, or custodian to pay a participation monitoring fee of:**

29 (1) at least five dollars (\$5); but

30 (2) not more than fifteen dollars (\$15);

31 for each month until the order expires or is otherwise terminated
 32 instead of the court cost fees prescribed by IC 33-19-5-3.

33 **Sec. 11. (a) The probation department for the juvenile court**
 34 **shall do the following:**

35 (1) Collect the participation monitoring fee set under section
 36 10 of this chapter.

37 (2) Transfer the collected participation monitoring fees to the
 38 county auditor not later than thirty (30) days after the fees
 39 are collected.

40 (b) The county auditor shall deposit the fees in the county user
 41 fee fund established by IC 33-19-8-5.

42 **Sec. 12. A parent, guardian, or custodian who fails to comply**



1 **with an order issued under this chapter may be found in contempt**
2 **of court.**

3 SECTION 10. IC 33-19-8-5 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) A county user fee
5 fund is established in each county for the purpose of financing various
6 program services. The county fund shall be administered by the county
7 auditor.

8 (b) The county fund consists of the following fees collected by a
9 clerk under this article, and by the probation department for the
10 juvenile court under IC 31-34-8-8, ~~or~~ IC 31-37-9-9, **or IC 31-41-1:**

- 11 (1) The pretrial diversion program fee.
12 (2) The informal adjustment program fee.
13 (3) The marijuana eradication program fee.
14 (4) The alcohol and drug services program fee.
15 (5) The law enforcement continuing education program fee.
16 (6) The deferral program fee.
17 (7) The jury fee.

18 **(8) Participation monitoring fee.**

19 (c) All of the jury fee and two dollars (\$2) of every deferral program
20 fee collected under IC 33-19-5-2(e) shall be deposited by the county
21 auditor in the jury pay fund under IC 33-19-10.

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